

# ReedSmith

**Kurt F. Fernsler**  
Direct Phone: 412.288.8598  
Email: kfernsler@reedsmith.com

Reed Smith LLP  
435 Sixth Avenue  
Pittsburgh, PA 15219-1886  
412.288.3131  
Fax 412.288.3063

September 13, 2005

**VIA FACSIMILE #412.394.3348**

John H. Riordan, Jr., Esquire  
Polito & Smock, PC  
Four Gateway Center, Suite 400  
Pittsburgh, PA 15222-1237

Re: **Burchick Construction Company, Inc. v. HBE Corporation**  
**USDC Western District of Pennsylvania, Docket No. 05-CV-12E**

Dear John:

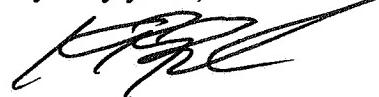
I am in receipt of the additional documents produced by HBE and your letter of September 8, 2005. I appreciate your efforts at having 30(b)(6) designees made available for deposition. I notice in your letter that you have informed your client that the matter is time sensitive and that I would like to take the deposition in September. In my earlier letter, I had actually agreed to extend discovery and take the deposition during the week of September 19, but no later than Friday, September 23, 2005 (which gives 30 days' notice for the deposition). I am not anxious to take the deposition later than that week, due mainly to the fact that my pretrial statement is due by October 10, 2005.

Please get back to me at your earliest convenience regarding a date for the deposition next week. We need to set this up prior to September 19, 2005 as any motions relating to discovery must be filed prior to that date.

Point number two in my Notice of Deposition regarding insurance is not relevant to Burchick's affirmative case. If it is not relevant to HBE's defense or counterclaim, and you are willing to stipulate that no documents, testimony or other evidence be admissible at the trial of this matter on this issue, I would also so stipulate. If not, I'll need a deponent on that point.

I look forward to hearing from you soon.

Very truly yours,



Kurt F. Fernsler

KFF:jam

cc: David Meuschke